

# **Financing Infrastructure Improvements through Impact Fees**

## **A Manual for Maine Municipalities on the Design and Calculation of Development Impact Fees**



**Maine State Planning Office  
January 2003**

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Augusta, Maine 04333  
207-287-3261  
<http://www.maine.gov/spo>

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This handbook is designed to provide Maine communities with the information and tools necessary when considering implementation of an impact fee ordinance. The handbook was prepared by the Southern Maine Regional Planning Commission. This handbook may be downloaded or ordered from the State Planning Office's Land Use website at <http://www.maine.gov/spo/>.

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## Table of Contents

Introduction .....	1
What Are Impact Fees? .....	2
How May Impact Fees Be Used? .....	3
How Do Impact Fees Fit Into A Community's .....	4
Growth Management Program? .....	4
Legal Requirements for the.....	5
Development and Adoption of Impact Fees .....	5
Considerations to be Addressed Prior to .....	6
Developing an Impact Fee Ordinance .....	6
Considerations to be Addressed While Developing an Impact Fee .....	9
Potential Advantages and Disadvantages of Impact Fees .....	12
How-To Examples.....	15
Appendix A.....	22
Appendix B.....	23
School Improvement Impact Fee .....	24
Parks and Open Space Impact Fee .....	29
Highway Improvements Impact Fee.....	33
Appendix C .....	40
Regional Council Land Use Technical Assistance Contacts .....	40

# Introduction

In times of relative economic prosperity, many communities experience new development. For some of these communities new residents and businesses place demands on public facilities and services that require additional investment by local government. Residential development may bring in new students, requiring additional classroom space. Commercial development may generate additional traffic, causing the need for highway improvements. A growing population may require additional park and playground space.

Already strapped to raise the necessary funds for annual operating budgets, many communities have fallen behind in expanding and improving their capital facilities in the face of growing demand. As a result, local communities nationwide have been searching for alternate sources of funding for needed public improvements.

Due to the nature of many public facilities, additional capacity cannot be provided in small increments. A school cannot be expanded to accommodate the students from one new house. There is rarely one new building project that necessitates new fire equipment. Rather the need for new classrooms or firefighting equipment is the result of the cumulative demand from many small projects. Impact fees allow a municipality to equitably collect the cost of incremental marginal growth in demand for public facilities from those who create that demand, without overburdening any single development for the cost of wholesale improvements in service or facilities.

## What Are Impact Fees?

Impact fees are charges assessed against new development that attempt to cover the cost of providing capital facilities needed to serve the development. Their use has been promoted as a way for growth to “pay its own way” by charging at the beginning for infrastructure needed by new development. Impact fees provide one way to help insure that existing residents will not bear the cost of new facilities necessitated by the new development.<sup>1</sup>

Impact fees have been developed as an extension of the legal theory that allows local governments to require both improvements on the site of the development and off-site. These improvements, known as “development exactions” have evolved throughout the past 50 years. Originally, courts upheld local government regulations that required developers of property to improve the property in manner that provided direct benefit to the future property owners, such as parks and street improvements. A number of court cases across the country in the early 1960s both struck down and upheld requirements for either off-site improvements or payment of fees in lieu of those improvements. Eventually courts supported regulations that require developers to make a financial contribution to a public fund for off-site improvements, as long as there was a direct relationship between the development and the need for the improvement, and as long as the funds were dedicated for that use. In the early and mid-1970s, a series of cases established a set of principals which guide the development of impact fees.

These court-imposed principals were codified into Maine law when the Legislature enacted the Comprehensive Planning and Land Use Regulation Act of 1987. The statutory requirements for impact fees can be found in Title 30-A MRSA, Section 4354, and will be discussed later in this manual.

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<sup>1</sup> *Impact fees in Florida*, Florida Advisory Council on Intergovernmental Relations, 1986

## How May Impact Fees Be Used?

Impact fees may *only* be used for financing facility improvements needed due to demand caused by new growth. Impact fees are a method of financing the capital improvements that are required by new development in a community. As such, they may be used to assist a community paying for improvements in sewer, water, public safety, and school facilities that are necessary due to increased demand from new construction in the municipality.

Impact fees **may** be used for:

- **Highway improvements:** streets and intersection improvements to increase capacity to handle traffic projected from new development;
- **Public safety facilities:** new buildings, improvements to existing buildings or new equipment necessary for police, fire or emergency services required by the new demand placed on these services by growth;
- **Sewer and water:** expansions to sewer and water treatment plants or collection and or distribution systems;
- **Parks and open space:** the purchase or improvements to public parks, open space and other recreations facilities if those new facilities or improvements are required to serve new residents of the community; and
- **School improvements:** school construction and improvement projects if those projects are designed to accommodate students living in newly constructed residences.

Impact fees may not be used to pay non-capital costs, or to pay for improvements required to cure existing deficiencies in public facilities.

Impact fees **may not** be used for:

- **Operations and maintenance:** salaries or day-to-day costs of replacing materials used in providing a governmental service;
- **Meeting existing deficiencies:** replacing portable classrooms or relieving congested streets; and
- **Facilities not needed to serve new development or which do not benefit new development:** improvements that will not serve the new development. There must be a reasonable connection between the need for additional facilities and growth due to new development, and between spending the fees collected and benefits received by the development paying the fee.

## How Do Impact Fees Fit Into A Community's Growth Management Program?

One of the guidelines of Maine's Comprehensive Planning and Land Use Regulation Act is for municipal comprehensive plans to "develop a capital investment plan for financing the replacement and expansion of public facilities and services required to meet projected growth and development."<sup>2</sup> As one source of financing for public facilities, a locally adopted impact fee can be an integral part of a municipality's capital investment plan.

In the development of the capital investment plan, potential sources of financing for the needed improvements should be identified. Those investments that are projected to be required due to growth pressures on public facilities or services should be identified separately than those that are replacement of obsolete equipment and old facilities, or which are needed to remedy today's deficiencies in service. A municipality may consider impact fees as a source of financing for those improvements that are needed due to projected growth.

If the needed facility or equipment will not be serving the entire community, then an impact fee may only be collected from the developing properties that will be provided some benefit from the new or improved facility. In a situation such as this, where an impact fee will be collected on new development in one part of town and not on another, the fee may cause a shift in the location of new development. This shift should be considered in the community's assessment of whether an impact fee is an appropriate financing tool.

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<sup>2</sup> Title 30-A MRSA §4326, sub§3



## Legal Requirements for the Development and Adoption of Impact Fees

Throughout the nation, as cases challenging impact fees have been decided, the courts have established a principal known as the *rational nexus* test for determining the legitimacy of an impact fee.

The *rational nexus* test consists of three requirements to assure the fairness of a fee:

- The expansion of the facility and/or service must be necessary and must be caused by the development;
- The fees charged must be based on the costs of the new facility/service apportioned to the new development;
- The fees must benefit those who pay; funds must be earmarked for a particular account and spent within a reasonable amount of time.

The Maine law that addresses a community's ability to develop, collect, and spend impact fees was written with the national body of case law in mind. Maine's impact fee statute, Title 30-A MRSA, §4354, was enacted in 1987 as part of a package of statutory changes which updated the state's planning and land use laws. A complete copy of the statute can be found as Appendix A. A summary of the statutory requirements is provided below.

The statute allows an ordinance enacted under a community's home rule authority to require the construction of off-site improvements or the payment of impact fees instead of the construction. An impact fee may be collected either before or after completing the infrastructure improvement.

The statute lists a number of types of facilities that may be financed through impact fees, but is clear that a municipality is not limited to only those listed. Included in the statute are:

- Waste water collection and treatment facilities;
- Municipal water facilities;
- Solid waste facilities;
- Fire protection facilities;
- Roads and traffic control devices; and
- Parks and other open space or recreational areas.

The statute requires that the amount of a fee must be reasonably related to the development's share of the cost of infrastructure improvements made necessary by the development, or reasonably related to the portion or percentage of the infrastructure used by the development.

Funds received from impact fees must be segregated from the municipality's general fund and may be used only for the infrastructure construction or improvement project for which they were collected.

A reasonable schedule must be adopted for the use of the funds in a manner consistent with the capital investment component of the comprehensive plan. The municipality must refund impact fees, or the portion of impact fees, that exceed the municipality's actual costs or that were not expended according to the schedule.

## Considerations to be Addressed Prior to Developing an Impact Fee Ordinance

There are a number of issues that a community should consider prior to developing an impact fee ordinance, aside from the detailed technicalities of drafting the ordinance and determining the fee. Because of the potential effects of imposing impact fees on the cost of new development, the decision to collect an impact fee is not one a community should rush into. There must be sufficient planning and analysis of the needs of the community prior to adoption of a fee system. Below are a number of questions each community should consider prior to developing an impact fee ordinance. The answers to these questions can help the community determine whether they are ready to develop an impact fee ordinance or even whether impact fees are an appropriate tool for use in their finance management efforts.

### **Why is the impact fee being considered?**

Some communities have said, “Oh, we need impact fees because we are growing too fast.” While the adoption of a fee may have an impact on the rate of new development, impact fees should not be adopted in an effort to slow development. A community must identify the public facilities and services that are being affected by growth, the types of improvements that new growth is necessitating, and begin to plan the improvements needed prior to adopting an impact fee ordinance.

### **What are the community’s priorities?**

As part of its comprehensive planning process, a municipality should be looking at all of its capital investment needs. The capital investment plan should prioritize the future needs of the community and determine which new or improved facilities or equipment are required due to projected growth. All of the identified capital needs should be prioritized by importance and by whether they are short, medium, or long-term needs.

### **What are the alternative funding mechanisms or sources?**

The capital investment plan should list the various options for financing the projects. Possible options may include, appropriation from the general fund within the year of construction, establishment of reserve accounts with annual contributions, short-term borrowing, long-term debt, grants from other levels of government, user fees and impact fees.

### **Is the community willing to risk the potential loss of development activity that may occur as a result of the imposition of fees?**

In Maine, where housing or commercial markets typically cover more than one municipality, the imposition of an impact fee in one community has the potential to shift the desirability of building in that community compared to other municipalities within the same market area.

### **Will development move to adjacent communities with lower costs?**

Depending on the size of the fee and the condition of the real estate market, an impact fee may raise the cost or price of housing or other development in the community. This increase in cost could result in other towns within the same market area becoming more attractive financially. Once the impact fee system has been in place long enough, research in other parts of the

country has shown that real estate developers take the cost of the fee into account when making offers for raw land. This means that their final price is not increased by the amount of the fee, because they have been able to lower their up front costs. However, the fee is still a cost of doing business compared to municipalities without one and may result in higher prices.

**How will the impact fees affect the community's economic development goals?**

There should be some consideration of how the potential for higher development costs will impact the other goals of the municipality. If it is a community's objective to promote business or industrial development, the imposition of an impact fee for highway improvements may hamper the community's ability to achieve that goal as prospective businesses locate in neighboring towns without the fee.

**Has the municipality adopted level of service standards for provision of the specific public facilities/service for which the impact fee is intended?**

A community should establish levels of service it wants to maintain in order to determine the need for future facilities and the extent to which new development contributes to that need. Examples of a level of service standard are to have one baseball field for every 1,000 residents, to have fire ponds and dry hydrants no more than one half mile apart, or to keep the response rate for ambulance calls under ten minutes.

**Are desired levels of service identified in the comprehensive plan, capital investment plan, or long term budget planning process?**

The comprehensive plan should identify the current level of service that various municipal departments are able to provide and establish a goal for the ideal level of service. Remembering that impact fees cannot be used to finance improvements to existing deficiencies, the calculations to determine the impact fee must separate the improvements needed for projected growth from the improvements needed for today's conditions. As an example consider a fee for school improvements in a community that has a school with a design capacity of 200 students, current enrollment of 250, and plans for new classrooms to provide for new capacity of 300. Whereas half of the new capacity is to remedy today's overcrowding, only half the cost of the expansion should be used in the calculation of the impact fee.

**Has the municipality conducted a needs assessment for the specific facility/service for which the impact fee is intended?**

The community should have a fairly reliable estimate prepared for the facilities in question. Traffic engineers have standard formulas that are used to estimate the capacity of an intersection or stretch of road. There are standards for the number of students in a classroom and the type of auxiliary facilities that should be provided for various size schools. A community should take advantage of this type of information to prepare an assessment of the currently available capacity and using projected growth rates, when improvements are needed. The assessment should tie existing and future population demand for services to existing and future provision of services based on adopted level of service standards.

**How will the municipality determine the costs of its needs once they have been identified?**

In response to the needs assessment, a projection of the future improvements should be prepared. In order to develop an impact fee, the municipality must have an estimate of the costs of the improvements to be financed by the fee.

The calculation of impact fees must be based on reasonable estimates of the costs of improvements. The more refined the cost estimates, the more secure an impact fee ordinance will be if challenged. However, this does not require detailed engineering or architectural drawings and cost estimates. Cost estimates can be based on “ball park” averages as long as these have some reasonable basis. As an example, the Department of Education maintains information on the size and cost of recent school construction projects. Using these figures and the desired floor area per student can yield average costs per student. If an impact fee is being considered for parks or open space, average per acre sales prices for land in the neighborhood of where the park would likely be located can be obtained through the assessor’s office.

**How does the municipality’s growth rate affect the use of impact fees?**

In considering whether to develop an impact fee ordinance, a community should be looking at the overall rate of growth in the community and determine whether the fee will result in enough revenue to make the effort of ordinance development and administration worthwhile. Most likely, a community without a fast growth rate would not be considering the concept of impact fees. However, a rough estimate of the revenue to be generated through impact fees should be prepared fairly early in the process.

# Considerations to be Addressed While Developing an Impact Fee

## **What types of development should pay the fee?**

All types of development that directly contribute to the demand for the improvements that the fee will be financing must pay an impact fee. The fee should be assessed to all of those developments, regardless of the level of review required or regardless of the status of the applicant, developer or occupant of the development.

If the impact fee is paying for improvements to a facility that will be directly used by residential, commercial, and industrial uses, such as highway improvements, sewer facilities or public safety facilities, then the fee should be assessed on all three types of uses. On the other hand, if the fee will be used to finance a facility that will only be used by residents of the town, such as a recreation facility or school, then the fee should be collected from new residences only, and not commercial and industrial developments.

If a fee is being collected from new residential structures, then all new residences that contribute to the demand for increased service or expansion of facilities should be assessed the fee. New homes on individual lots create the same amount of traffic or supply as many public school students as do homes in a subdivision. Therefore, a municipality should not be assessing impact fees solely on new subdivisions and not homes built on individual lots. Similarly, it would be impermissible to exempt current residents from paying the fee based solely on their residency.

## **When should the fee be charged?**

The community must decide at what point in time the fee will actually be collected, and therefore which individuals will be paying the fee. While general economic theory indicates that the final consumer of the development will ultimately be paying the fee, the point in which the fee is collected may impact on whose shoulders the burden of paying the fee falls and the ultimate cost of the fee. There are primarily three choices facing a community in determining when a fee will be collected: at the time a development is approved; or when a building permit is issued, when the development is occupied.

The demand for public infrastructure improvements comes about only when a new development is occupied. The closer to the time of occupancy an impact fee is collected, the more there is a connection between the individual paying the fee and the need for the improvements the fee is helping to finance.

The earlier in the development process the fee is collected the further it is removed from the actual consumer who is creating the demand for improvements to public facilities. For instance, if the fee on new residences is collected at the time a subdivision is approved by the planning board, the subdivider or developer will be paying the fee. The homebuyer or renter may ultimately be paying the fee through increased prices or rents, but they are insulated from doing so. Changes in market conditions may result in the developer not being able to add the cost of the impact fee onto the price of the new home. In addition, requiring the fee to be paid so early in the development process, perhaps years before a particular house or apartment is occupied, most likely will result in the added costs of interest between the time the fee is paid and the unit sold or rented.

An additional potential drawback to collecting a fee at the time of development approval is that a separate mechanism must be established to collect fees from other similar developments that do not need to go through the same development review process. For example, if a municipality is collecting an impact fee from each new dwelling unit for the expansion of public parks, then a mechanism is needed to collect the fee from all new dwelling units in the town, not just those in a subdivision that requires approval from the planning board.

If a community has a system for the issuance of occupancy permits prior to the occupancy of new structures, then payment of the impact fee prior to the issuance of the certificate of occupancy may provide the greatest level of equity to the property owner. The fee is collected as late in the process as possible, allowing the developer or property owner to retain their cash for a longer period of time. There is also less opportunity for the fee to be paid and then absorbed into the cost of development.

However, a community must have a system in place that assures that all new developments receive a certificate of occupancy in order for payment at that time to work successfully. If the code enforcement office does not assure that a certificate is issued prior to occupancy then there is too much chance that a fee may not be paid. In these cases, collection of the fee at the time of building permit issuance should be considered.

#### **How will benefit zones and boundaries be addressed?**

A municipality must determine the geographic extent of the community that will benefit from the planned improvements. Though many public facilities will have a town-wide benefit, some facilities or facility improvements may benefit only a portion of the community. If impact fees are being considered in order to provide some of the financing for a new fire substation, then the fee should only be paid by new development that will be within the service area of the substation. If the substation will always be used to fight fires in a certain area of town and sometimes used in other parts, then the fee should be adjusted to reflect the percentage of demand new developments in the other parts of the town will place on the services of the station.

Impact fees for highway or intersection improvements should be assessed based on the amount of traffic a new development will be contributing to that highway or intersection. Therefore, new development close to the improvement should be paying a more than development on the opposite side of town. The formula used to calculate the fee should account for the percentage of traffic from a new use that will be using the improved highway or intersection.

The fee system must assure that those that pay the fee will benefit from the facility being financed, and that those who benefit from the facility do pay.

#### **What about credit against double payment provisions?**

New developments will be paying taxes that go towards payment for new facilities as well as impact fees. The impact fee formula should recognize this and fees should be reduced to reflect future tax payments for debt service on the facility. If the facility is going to be financed through long-term bonds, there is usually an analysis of the impact of debt service on the tax rate. An analysis should be done of the projected taxes to be paid by different types of development during the life of the debt.

#### **What are implications of impact fees on local government finance?**

The municipality's finance department must have the capacity to assure that impact fees can be properly accounted for. Most importantly, state law requires that impact fees remain segregated from the municipal general fund and be used only for the purpose for which they are collected. A separate account should be established upon enactment for each facility or type of improvement for which an impact fee is collected.

Records need to be maintained, including the date of each contribution, the person paying the fee, and property for which the fee was paid. State law requires that the municipality establish a mechanism for returning impact fees if they are not spent on the intended improvements within a reasonable amount of time. Long-term maintenance of these records is important in order to be able to return fees if necessary.

# Potential Advantages and Disadvantages of Impact Fees

There are both advantages and disadvantages to using impact fees to assist finance capital improvements needed due to growth. Depending on one's point of view, some features listed below in category could be considered to be in the opposite category.

## Advantages

**Direct benefit.** Properly established, impact fees implement a policy where the beneficiaries of a service pay for the service. There may be cases that, without the funds provided through impact fees, local voters would not be willing to finance improvements. The assessment of impact fees allows for improved municipal service by permitting facility improvements to progress.

**Equity and Efficiency.** Many deem impact fees to be an equitable and efficient manner in which to raise funds for improvements to public facilities needed to accommodate new growth. The link between those who pay for the improvements and those who shoulder the costs for the improvements provides an equitable solution to difficult and costly public construction projects. Once established, impact fees are an efficient method of collecting funds.

Another source of equity is that small-scale builders and single homes, as well as larger scale developments, are required to pay. Without an impact fee system, the cost of public improvements is sometimes cast upon the large developments. These developments may require some improvement solely to assure an adequate level of service, but frequently bear the costs for improvements necessitated by other development projects as well. With impact fees, each new development contributes its fair share to the cost of these improvements.

**Political popularity.** Impact fees are frequently popular in localities that have seen rapid growth cause a decrease in the levels of service local government can provide without large expenditures for facilities improvements. As an alternate source of revenue available to local government, impact fees remove some of the costs of growth from the taxpayers and shift those costs to the individuals directly responsible for the new or improved facilities. If projected growth on the outskirts of a town results in the need for a new fire station in that area, impact fees allow the municipality to shift the cost of providing the new facilities to those who have caused the need for those facilities and will receive a direct benefit from them.

**Inclusion of approved but not yet built developments.** Impact fees may be structured to include previously approved, but not yet built, developments from which exactions pertaining to the public facilities to be financed through the fees were not obtained. For instance, if there are still a number of vacant lots in a subdivision, an impact fee may still be collected for intersection improvements or school construction at the time a building permit or certificate of occupancy is issued for those lots. If, as part of the subdivision review process, the applicant or developer was required to either make improvements or a financial contribution in lieu of improvements, then a fee for those improvements would not be permissible on future construction in the subdivision.



**May reduce borrowing and debt costs.** By providing an alternate mechanism for financing public infrastructure improvements, impact fees can lower the amount a municipality will be required to borrow for major capital projects. If an impact fee is collected for a period of time prior to the construction of the project, the municipality has opportunity to reduce the principal being borrowed by the total amount of collected fees. If the fees are being collected after initiation of the project, the amount to be borrowed will not be reduced, but a portion of debt service will originate from the impact fee and not be incorporated into the town's tax rate.

## **Disadvantages**

**May not cover total infrastructure costs.** Municipalities will not be able to shift the entire burden of facilities construction or improvements to those responsible for new growth. Rarely will a new facility or an improvement to a new facility be built solely to serve growth without also either serving some existing developments or correcting existing deficiencies in service. A new fire station will also provide service to the existing homes and businesses in the neighborhood, not just the new ones. Highway improvements and school expansions are almost never planned until there is congestion and overcrowding. Impact fees do not totally insulate the municipality from bearing some of the costs of new or expanded facilities; they merely reduce the portion required through traditional revenue sources.

**Difficult to establish and potentially difficult to administer.** In order to establish a defensible impact fee system, the municipality must have completed a significant amount of research and planning. Impact fees must be based on identified needs with, at a minimum, a conceptual plan of solutions and cost estimates for that plan. As planning and project design proceed, the most recent and most refined cost estimates for the project can be used. For public facilities for which a specific project has not been identified, such park and open space acquisition, the community must establish desired standards for the a level of service, such as acres of park land per capita, and estimate the cost of achieving that level.

Administration of an impact fee system requires long-term maintenance of segregated accounts, and a bookkeeping system that tracks contributions to and withdrawals from these accounts. While computerized bookkeeping software and basic spreadsheets facilitate the financial record keeping that is necessary, many of Maine's smaller municipalities may not be prepared to implement these practices.

**Fee revenues depend upon the rate of new development.** The revenue flow from impact fees is as unpredictable as the rate of new construction. As the vagaries of the economy wax and wane, so will the annual total of fees collected. The construction of one large development may provide a large amount in fees one year that is not matched in subsequent years. This may lead to some fluctuation in the tax rate, as expenditures from taxation must change to reflect the amount of impact fees raised.

**Some question the equity of impact fees.** As much as this manual has presented impact fees as an equitable tool to shift the burden of financing new public facilities to those who create the demand for those facilities, there is an argument that impact fees create an inequity. The philosophy promoted by some analysts is that today's citizens and taxpayers are benefiting from investments made by previous taxpayers to construct the currently existing facilities and that impact fees remove their responsibility to provide

for future citizens. The developers of the existing housing stock or commercial facilities did not pay impact fees. These commentators suggest by charging impact fees on new development, today's citizens benefit by our predecessors spending and avoid spending for tomorrow's citizens.

**Effect on low/moderate income housing prices.** When assessed on residential development, impact fees may have the effect of increasing housing prices or the rent necessary carry the capital costs of new housing. Some have raised the concern that this may result in new housing being even less affordable to low- and moderate-income families. This is a legitimate concern when there are impact fees assessed throughout a majority of the housing market. However, in Maine the market for housing usually encompasses more than one municipality. All homes within that market area are competing with each other for buyers. The imposition of impact fees in only one municipality should not result in an increase in the price of homes in that municipality, because they would then not be able to compete with homes in neighboring municipalities without fees.

If impact fees are of concern regarding the price of housing, local ordinances *should not* waive those fees for moderately priced housing or housing reserved for low- and moderate-income families. Impact fees must be assessed on new development based on the impact the new development will have on the facility being improved. Unless there is a clear connection between the income of the occupant and the demand for service from the facility, then the impact fee should be assessed similarly on all similar housing units.

In communities that are truly concerned about price of low- and moderate-income housing, an acceptable solution would be for the municipality to appropriate funds as part of the annual budget process to pay the impact fee for qualifying units. In this manner, the fee is paid into the special account regardless of the income of the residents, and all housing units are treated fairly.

# How-To Examples

## Ordinance Format and Establishment of Fees

A municipality has a number of choices as to how to format the adoption of an ordinance establishing impact fees. The choices it makes will be dependent on the municipality's form of government, the staff or other technical assistance available to its municipal officials, and the level of trust the citizens have in their municipal officials. Among the decisions to be made are:

- whether to establish impact fees as part of an existing zoning or other land use ordinance or in a separate ordinance;
- whether the ordinance should include the actual fee amount or whether it merely authorizes the establishment of a fee and delegates the authority to set the fee to municipal officers;
- whether the fees will be established in advance; or
- whether they will be determined on an individual basis as determined by an analysis of impacts.

The following pages provide examples of ordinance provisions from a number of Maine municipalities. Accompanying each one is an analysis of the provisions to guide readers in how the examples could be used as models.

## Brunswick

Brunswick was one of the first Maine municipalities to incorporate impact fee language into its Zoning Ordinance. In 1986, prior to the enactment of state law regarding impact fees, the Town Council enacted a new ordinance that included a provision allowing the Planning Board to require an impact analysis as part of the site review process and to require a developer to "participate in municipal infrastructure improvements." During the review process, the Board was to establish the level of the participation. In the mid-1990s, the impact fee section was amended. However, the fees are still only applicable to projects which must go before the Planning Board and the Board may require participation only when it finds that development will result in a decline in the level of service of any existing municipal infrastructure system or service.

### 509      **Community Facilities Impact Analysis**

The Planning Board, in order to determine if the development will result in impacts outside the boundaries of the project, may require a facilities impact analysis which shall address the following:

#### 509.1      **Impact Analysis**

- A. Estimated impact on the sewage treatment system, including assessment of capacity and ability to accept particular types of flowage and septage from on-site septic systems.
- B. Estimated impact on the water system, including flow estimates, capacity and assessment of existing or potential water pressure.

- C. Estimated impact on traffic system, including the impact of projected trips on flow characteristics and the impact of traffic on existing road system.
- D. Residential development, the estimated impact on the school system, based upon the demographic description outlined in Section 509.2.
- E. Estimated impact on the public safety providers.
- F. Estimated impact on the Public Works Department, including solid waste disposal.
- G. Estimated impact on the existing storm water management system, including flow and water quality.
- H. Estimated impact on the recreation resources and provisions of methods to meet projected needs, based on the demographic description outlined in Section 509.2.
- I. Any other impact identified through the review process.

#### **509.2 Demographic Description.**

For residential development, the analysis must identify the demographic market the project intends to serve, including:

- A. average family size.
- B. numbers and ages of children.
- C. anticipated time period to fill all units or lots.

Associated data, such as anticipated family income levels, type of employment, and projected housing costs may also be presented to support projections associated with the above demographic description. If transfers from existing Town families and homes are expected, the impact on the secondary market must be projected. The basis for all projections must be provided.

### **510 Development Impact Fees**

The Planning Board may require the applicant to participate in municipal infrastructure and/or service system improvements in accordance with Section 509, where it can be clearly demonstrated that the proposed development will result in a negative impact or decline in the level of service of any existing municipal infrastructure system or service. The Planning Board shall assess and establish the applicant's level of participating in the improvement of the system or service.

#### **510.1 Conducting the Assessment**

In conducting the assessment, the Planning Board shall consider the following:

- A. The status of the system and service in the comprehensive plan and capital improvement program relative to any planned improvements and scheduling.
- B. The net effect of the proposed development on the capacity of the infrastructure or service system, indicating the percentage share caused by the development.

- C. A cost estimate for improvement of this infrastructure or service system to meet the increased demand, and an estimate of the applicant's share of that cost.
- D. An assessment of municipal water and sewer system improvements provided by the appropriate agencies.

#### **510.2 Improvement Responsibilities**

As soon as the applicant's share of infrastructure and/or service system impact has been established by the Planning Board, the Board shall select the method by which the applicant is to participate in the infrastructure and/or service system improvement. The following alternatives are available.

- A. The applicant shall agree to make the necessary infrastructure and/or service system improvements, establish a construction or service schedule, and post a performance guarantee to cover all associated costs. The applicant may recover the improvement costs within 10 years after improvements are made. For the applicant to recover these costs, subsequent developments must realize a benefit by using the infrastructure and/or service system improvements financed by the applicant. Cost reimbursement for the applicant shall be established as subsequent developments go through the site plan or subdivision review process. In arriving at the appropriate cost share for subsequent developments, the same process must be used.
- B. The Town shall agree to complete the improvements. The applicant shall pay the required share of the cost to the Town at the time of approval of the final plan which shall be held in a reserve fund until the improvement is completed in accordance with the scheduled capital improvement program of the Town. If the improvement is not completed within 10 years, the fee, plus interest, must be returned to applicant.

This ordinance may be at risk due to its applicability only to projects that come before the Planning Board and due to its assessment of a fee or upon the demonstration of a negative impact on a service or facility. All developments that create a demand for a service should be subject to the fee. The ordinance appears to potentially require a developer to participate at level beyond the proportional share required by the development.

### **North Berwick**

North Berwick amended its zoning ordinance to establish an impact fee system in 1997. The ordinance contains a provision that the Planning Board must require all applicants for subdivision approval to conduct a "community facilities impact analysis." The builder of any speculatively built home must pay an impact fee prior to the issuance of a building permit. The amount of the fee is to be determined by the Board of Selectmen. Having not yet prepared the necessary capital improvement plans, no fees have been established by the town.

#### **6.9 Community Facilities Impact Analysis**

##### **6.9.1 Applicability**

- a. The Planning Board shall require all applicants of subdivisions to conduct a Community Facilities Impact Analysis as part of the subdivision review process.
- b. The Code Enforcement Officer shall require the applicant for building permit for a speculative dwelling to participate in the municipal infrastructure improvement program and pay a development impact fee at the rate currently in effect for roads, police, fire, and schools. Total fee to be paid for each dwelling unit before the building permit is issued.

#### **6.9.2 Analysis**

- a. Prepare the following demographic data:
  - 1. type of family;
  - 2. average family size of dwelling;
  - 3. forecast number of children;
  - 4. anticipated time interval to fill the dwellings;
  - 5. associated data, such as anticipated income levels, type of employment, and projected housing costs may also be presented to support projections associated with the above demographic data. Impact on the secondary market must be projected. The basis for all projections must be provided.
- b. The applicant shall have an analysis conducted using the demographic data above and shall address the following:
  - 1. Estimated impact on sewage disposal system, including flow estimates and assessment of capacity;
  - 2. Estimated impact on the water system, including flow estimates, capacity and potential water pressure;
  - 3. Estimated impact on traffic patterns including the impact of projected trips on flow characteristics and structures, including traffic at intersections;
  - 4. Estimated impact on the school system;
  - 5. Estimated impact on the public works department;
  - 6. Estimated impact on storm water management, including flow rates and water quality;
  - 7. Estimated impact on public safety providers;
  - 8. Estimated impact on the recreational resources and provisions of methods to meet proposed needs;
  - 9. Any other study deemed appropriate by the Planning Board.
- c. Once the above analyses have been completed, the applicant shall present appropriate projections and impact assessments to the Planning Board for review and comment.

#### **6.9.3 Development Impact Fees**

- a. The per person or dwelling level of costing will be set and maintained by the Municipal Officers. The impact fee schedule will be updated at least annually to reflect current budget levels and current compliance with the Town of North Berwick Comprehensive Plan and the Town's Capital Improvement Program.

## **York**

Also in 1997, the voters in York enacted an amendment to their Zoning Ordinance, based on the concepts of North Berwick's ordinance, to authorize the Board of Selectmen to establish impact fees. The zoning ordinance contains language mirroring the restrictions and authorizations of state law and establishes specific procedures for public notice and hearings for the Selectmen to follow prior to enacting a fee.

The impact fee provisions were enacted at a time that the York School Committee was planning on expansions and improvements to or replacement of all five of the town's schools. The School Committee had already hired consultants and architects to project future enrollment and classroom needs, and prepare preliminary cost estimates for the school building improvement program. Following enactment of the authorizing ordinance provisions, the Board of Selectmen established a committee to prepare a recommendation for a school improvement impact fee. In July 1998, the selectmen adopted an impact fee on all new residential construction and improvements to existing residences that increased the number of bedrooms.

The ordinance does not establish the specific type of facilities for which impact fees may be collected, instead limiting the use of impact fees to financing those improvements required to demand caused by new growth and prohibiting fees from being used for operating costs, remedying existing deficiencies, and from financing facilities not need to serve new growth.

### **COMMUNITY FACILITIES IMPACT FEE PROGRAM**

#### **A. PREAMBLE**

The Town of York finds that new development places demands on municipal government to provide new services and expand and improve public facilities. In order to provide an equitable source of funding for these new services and facilities, the Town of York has established a municipal infrastructure improvement program which charges a proportionate share of the costs of facilities improvements to those who are creating the demand for these improvements.

#### **B. USE OF IMPACT FEES**

1. Impact fees may only be used for financing facility improvements needed due to demand caused by new growth.
2. Impact fees may not be used for
  - a. Operations and maintenance: impact fees may not be used to pay salaries or to pay for day-to-day costs or replacement of existing equipment;
  - b. Meeting existing deficiencies: impact fees may not be used to replace portable classrooms or to relieve congested streets; or
  - c. Facilities not needed to serve new development or which do not benefit new development: impact fees may not be used to finance improvements that will not serve the new development. There must be a reasonable connection between the need for additional facilities and growth due to new development and between spending the fees collected and benefits received by the development paying the fee.

### **C. APPLICABILITY**

1. The Code Enforcement Officer shall require the applicant for a Building Permit to participate in the municipal infrastructure improvement program and pay a development impact fee at the rate currently in effect for schools. The total impact fee shall be paid separately from any other fees required by this Ordinance and shall be paid at the time the Occupancy Permit is issued.
2. The Board of Selectmen shall establish the impact fee schedule and shall review and revise, if necessary, the impact fee schedule at least annually to reflect changes in planned improvements, current budget levels and compliance with the Town of York Comprehensive Plan and the Town's Capital Improvement Program. Prior to the establishment or revision of the impact fee schedule, the Municipal Officers shall hold two public hearings on the proposed fees. Notice of the public hearings shall be published in a newspaper of general circulation in the town at least twice. The first notice shall be published no more than 30 days in advance of the first hearing and the second no less than seven days in advance of the first hearing.
3. The impact fee schedule shall indicate the improvements to be financed; the anticipated schedule for construction; and the characteristic of new development by which the fee shall be calculated such as, but not limited to:
  - a. number of bedrooms,
  - b. square footage of floor area, or
  - c. traffic generated.
4. The amount of the fee shall be reasonably related to the development's share of the cost of the facilities improvements made necessary by the development or, if the improvements were previously constructed at municipal expense prior to the development, the fee must be reasonably related to the portion or percentage of the improvement used by the development.

### **D. SEGREGATION OF IMPACT FEES FROM GENERAL FUND**

1. The Code Enforcement Officer shall record the name of the individual paying the impact fee, the assessor's map and lot numbers for the property for which the impact fee is being paid, the amount of the fee paid for each facility for which fees are collected, and the date the impact fee was paid.
2. Upon collection of an impact fee, the Code Enforcement Officer shall transfer the funds to the municipal treasurer who shall deposit the impact fees in special non-lapsing accounts dedicated for funding the improvements for which the fee is collected.
3. Impact fee funds shall be maintained separately from and not be combined other municipal revenues.
4. Funds collected as impact fees shall be expended only for the infrastructure improvement for which the fee was collected.

### **E. REFUND OF IMPACT FEES**

The Town shall refund impact fees, or that portion of impact fees, actually paid that exceed the Town's actual costs or that were not expended within ten years of the date they were



collected. The Board of Selectmen shall establish the procedure for refunding impact fees or portions of impact fees not expended. Unexpended fees shall be returned to the owner of record at the time a refund is warranted.

**F. SUNSET CLAUSE**

The provisions of this section shall expire five years after their adoption, unless the governing body, prior to that time votes to maintain these provisions. Should this section be repealed or lapse, all unexpended refunds shall be returned in accordance with subsection D.

## Appendix A

### **Title 30A MRSA, §4354. Impact fees**

A municipality may enact an ordinance under its home rule authority requiring the construction of off-site capital improvements or the payment of impact fees instead of the construction. Notwithstanding section 3442, subsection 2, an impact fee may be imposed that results in a developer or developers paying the entire cost of an infrastructure improvement. A municipality may impose an impact fee either before or after completing the infrastructure improvement.

**1. Construction or fees may be required.** The requirements may include construction of capital improvements or impact fees instead of capital improvements including the expansion or replacement of existing infrastructure facilities and the construction of new infrastructure facilities.

A. For the purposes of this subsection, infrastructure facilities include, but are not limited to:

- (1) Waste water collection and treatment facilities;
- (2) Municipal water facilities;
- (3) Solid waste facilities;
- (4) Public safety equipment and facilities;
- (5) Roads and traffic control devices;
- (6) Parks and other open space or recreational areas; and
- (7) School facilities.

**2. Restrictions.** Any ordinance that imposes or provides for the imposition of impact fees must meet the following requirements.

- A. The amount of the fee must be reasonably related to the development's share of the cost of infrastructure improvements made necessary by the development or, if the improvements were constructed at municipal expense prior to the development, the fee must be reasonably related to the portion or percentage of the infrastructure used by the development.
- B. Funds received from impact fees must be segregated from the municipality's general revenues. The municipality shall expend the funds solely for the purposes for which they were collected.
- C. The ordinance must establish a reasonable schedule under which the municipality is required to use the funds in a manner consistent with the capital investment component of the comprehensive plan.
- D. The ordinance must establish a mechanism by which the municipality shall refund impact fees, or that portion of impact fees, actually paid that exceed the municipality's actual costs or that were not expended according to the schedule under this subsection.

**3. Deposit fees in trust fund.** Municipalities that are part of a school administrative district or other single or multicommunity school district may deposit collected impact fees in a trust fund to be used to pay their proportionate share of anticipated school capital costs.

## Appendix B

### Impact Fee Calculation Templates

The following pages provide templates that include the suggested formulae that can be used in calculating reasonable impact fees. These formulas assume that a community has finished, or is involved in, a planning process that has identified the levels of service it wishes to provide, needed improvements in order to achieve those levels of service, cost estimates for those improvements, the percentage of the improvements required to remedy existing deficiencies in service and the percentage required to service new development.

Depending on the type of facility for which impact fees will be collected, differing levels of advance planning and cost estimates are warranted. For instance, if fees are to be collected for highway improvements, then it is suggested that the community have identified the improvements and prepared fairly specific cost estimates for those improvements before calculating impact fees. For other types of facilities, such as open space and park land, simply developing a standard for acres per person and knowing the average cost per acre of land may suffice, without the need to identify a particular parcel to be purchased.

The manual contains a copy of the template and instructions for its use. Copies of the templates that can be used by municipal officials are available in two different manners. Templates can be downloaded from the Internet at <http://www.maine.gov/spo>. The second option is to obtain a floppy disk containing the impact fees templates from the Maine State Planning Office or your regional council (Appendix C). All the regional councils across the state have been provided a supply of disks with the templates on them. The templates are Microsoft Excel workbooks. They should be able to be read on computers using either Macintosh or Windows operating systems.

The templates prompt the user to provide the relevant information needed to calculate defensible impact fees and provide the mathematical formulas to use that information. The spreadsheets for the templates, a list of the information needed to use them and instructions for their use are included on the following pages.

## **School Improvement Impact Fee**

It is suggested that prior to collecting impact fees for school improvements, that a community should have gone through a process to identify the needed school improvements and have a reasonable estimate of their costs. There should also be an analysis of the current enrollment compared to the capacity of the school and a projection of future enrollment.

The School Improvement Impact Fee Template actually consists of two different spreadsheets that are linked together. The first sheet is used to calculate the cost of planned school improvements per student from new housing. The second sheet uses this figure and estimates of the average number of children enrolled in public school from various types of housing units to calculate the impact fee. The user should start with the “Cost Per Student” as the active sheet.

In order to use the School Improvement Impact Fee Template, the user must have access to the following information:

- ❑ The estimated costs of the planned improvements. This figure should include only the municipality's costs and should exclude any costs for improvements not required by growth.
- ❑ The planned capacity of the school(s) after the improvements is completed.
- ❑ The current capacity of the school(s).
- ❑ The existing enrollment at the school(s).
- ❑ The projected peak enrollment with no new housing construction. The municipality should request its consultant revise its model for projecting enrollment to assume there will be no new homes built in the community.
- ❑ The term and expected interest rate for the construction bonds.
- ❑ The expected affect the tax rate of the construction bonds.
- ❑ The average valuation of new homes in the community, by size and type of housing unit.

## Model Template for School Improvement Impact Fees

### Part I

School	Improvement Costs	Planned Capacity	Existing Enrollment	Increased Capacity	Projected Peak Enrollment w/out Migration	Planned Capacity for Net Migration	Percent of Increased capacity planned for new housing	Cost per student from New Housing
Elementary	<value>	<value>	<value>	#VALUE!	<value>	#VALUE!	#VALUE!	#VALUE!
Middle	<value>	<value>	<value>	#VALUE!	<value>	#VALUE!	#VALUE!	#VALUE!
High	<value>	<value>	<value>	#VALUE!	<value>	#VALUE!	#VALUE!	#VALUE!

### Instructions for the use of this Template

This template consists of two worksheets. This worksheet is used to calculate the cost of school improvements per student. The Impact Fee worksheet is linked to this spread sheet and will calculate the impact fee. Prior to using this template a community should have gone through a school facilities needs analysis and improvements planning exercise. In order to use this template the community will need to have a school improvement planned far enough to have reliable cost estimates, estimates of the future capacity of the new or expanded school and projections of enrollment. Do not use this template unless school improvements planning has progressed far enough to have produced these data. **All data required are marked by bold headings and red <value> cells. As the values are entered, the "#VALUE!" errors will be replaced with the calculations.** You only need to enter values for the types of uses to which the impact fee will apply.

**Improvement Costs** are the estimated local share of costs for the new school construction or addition. Any expected construction grants from the State should be subtracted from the total costs of improvements. If there are proposed improvements that are not required to accommodate increased student enrollment, these costs should be subtracted from the total improvements costs.

**Planned Capacity** is the estimated student capacity of the new school or the estimated student capacity of the existing school after the addition or other improvements are completed.

**Existing Enrollment** is the most recent available student population at each grade level. If improvements are not proposed at all three grade levels, then those grade levels without planned improvements should not be included in the table.

**Increased capacity** equals planned capacity minus existing enrollment, but not less than zero. *This will be calculated for the user.*

Prior to a decision to pursue an increase in school capacity, a school department or district should prepare projections of enrollment over at least a ten-year period. The increase in projection is usually based on past "survival rates" from grade to grade as well as information on births and new housing starts in the school district. Usually the consultant will make assumptions about future housing construction in the preparation of the projections. If possible the community should have the enrollment projections prepared a second time with an assumption of no new housing. **Projected Peak Enrollment w/out Migration** represents highest enrollment without migration due to new housing during the projection period.

**Planned capacity for net migration** represents the amount of the planned capacity of the new school or the facility improvements that are being planned for growth in enrollment due to new housing in the community. *This will be calculated for the user.*

**Percent of Increased capacity planned for new housing** equals the planned capacity for net migration divided by the increased capacity. Depending on the demographic makeup of the community, there is sometimes a change in enrollment which can be accounted for as a result of the turnover of existing housing. If this can be documented, the percent of increased capacity planned for new housing should be reduced accordingly. *This will be calculated for the user.*

**Cost per student from new housing** equals the percent of increased capacity planned for new housing times the improvement costs, divided by the planned capacity for net migration and is the basis for the impact fee. *This will be calculated for the user.*

## Part II

Single Family				Multifamily			Mobile Home		
2 BR	3 BR	4 BR	5 BR	1 BR	2 BR	3 BR	1 BR	2 BR	3 BR

Number of Public School Pupils by Housing Type and Size

K-Grade 4	0.087	0.234	0.426	0.401	0.008	0.079	0.139	0.040	0.056	0.376
Grades 5-8	0.058	0.140	0.269	0.248	0.010	0.040	0.114	0.000	0.043	0.231
Grades 9-12	0.025	0.092	0.110	0.295	0.010	0.034	0.095	0.000	0.028	0.078
Total	0.169	0.465	0.805	0.944	0.027	0.153	0.348	0.040	0.127	0.685

Impact Before Adjustment										
Impact	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!

	Credit for Taxes paid on School Debt, 1st year									
Avg Value	<value>	<value>	<value>	<value>	<value>	<value>	<value>	<value>	<value>	<value>
Mil Rate for Debt	<value>	<value>	<value>	<value>	<value>	<value>	<value>	<value>	<value>	<value>
Tax/yr	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Taxes in 20 yrs	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
PV of 20 yr tax	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Adjusted Impact	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Proposed Impact Fee	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!

The Data on the number of children in school for various housing types is derived from the 1990 Census of Population Public Use Microdata File. Though 10 years old, they are the best, most recent data publicly available and may be used unless more recent reliable information is available. These data represent the number of school aged children per housing unit in newly built (less than five years old) units. Each grade level is shown for single-family dwellings, multi-family dwellings, and mobile homes with different numbers of bedrooms. **All data required are marked by bold headings and red <value> cells. As the values are entered, the "#VALUE!" errors will be replaced with the calculations.** You only need to enter values for the types of uses to which the impact fee will apply.

The **Impact** value is derived by multiplying the number of children in each grade level from each type and size of housing unit times the average cost per student derived on the Cost Per Student worksheet. This operation derives the impact fee per housing unit prior to adjustments made for the future payment of taxes to support the debt service for the new facilities. *This will be calculated for the user.*

The template adjusts the impact fee for the present value of future payments of taxes to support the debt service for the new facilities. **Avg Value** reflects the average assessed value of each type of housing unit. These values should be developed with assistance from the assessor. This figure should reflect the average value of new housing units, not of all housing units in the community.

**Mil Rate for Debt** reflects the projected impact on the municipal tax rate from debt service. (This is not the entire mil rate for the municipality; it is only the portion of the mil rate attributable to the debt incurred by the school improvement projects.) This figure is usually prepared by the school department or its consultants. If not, it can be derived by dividing the average debt service by the projected total valuation for the municipality.

**Tax per year** is based on the estimate of impact of debt service on the construction bonds on the tax rate. It is the product of the Mil Rate for Debt times the Avg Value. *This will be calculated for the user.*

**Taxes in 20 yrs** reflects the amount of taxes to be paid over the assumed term of the school construction bonds. The length of time may be adjusted to reflect the term of the bonds by changing the "20" in the formula to the repayment period for the bonds. *This will be calculated for the user.*

**PV of 20 yr tax** is the present value of 20 annual contributions of the estimated tax payment, based on a 5% interest rate. In the template, the formula is presented as  $PV(0.05,20,-B15)$  where 0.05 represents the interest rate, 20 represents the term of the financing and B15 represents the annual tax contribution. The first two numbers in the formula may be changed to reflect the expected interest rate and term of the financing. *This will be calculated for the user.*

The **Adjusted impact** is the difference between the calculated impact fee and present value of the tax payments. If adjusted impact fee is less than zero, no impact fee should be paid. *This will be calculated for the user.*

**Proposed impact fee** is the adjusted impact fee *rounded down* to the nearest fifty dollars. If the suggested impact fee is less than \$0, "#NUM" will be returned as the proposed fee -- no fee should be paid. *This will be calculated for the user.*

The Credit for Taxes on School Debt must be adjusted in each year of the impact fee program to reflect the taxes paid as vacant land or an unimproved lot for the years prior to construction and taxes to paid in the remaining years of the construction bond.



## Parks and Open Space Impact Fee

In order to use this template, a community must have gone through a planning process to identify the desired acreage of parks and open space per 1,000 residents. **Do not** use this template without having determined the desired level of service for this type of public facility. It is important to note that this template uses *only* the cost of purchasing land for calculating an impact fee. It has been developed in order to provide funds for the general purchase of land for parks and open space, without the necessity of having a specific purchase or park development in mind. The costs of improving raw land into useable park space are not included. If a community has progressed far enough along in its park and open space planning process that it has a specific improvement in mind then the estimates of these costs could be included.

Additionally, though this template may be used for calculating the impact fee for future purchases of park and open space land, if the community has an existing deficiency of park and open space land (*i.e.* it is not currently meeting its desired number of acres per 1,000 population), then funds from impact fees should not be expended until the community has made up the deficit. The ordinance that establishes the impact fee program should specify that the funds collected through impact fees should be set aside until the specified number of acres to eliminate the current deficit has been purchased.

In order to use the Parks and Open Space Impact Fee Template, the user must have access to the following information:

- ☐ The desired level of service (number of acres per 1,000 population) the community would like to maintain.
- ☐ The expected average cost per acre for purchasing park and open space land to the community. If the community expects to receive funds other than from local property taxes, these funds must be subtracted from the cost of the land.
- ☐ The term and expected interest rate for any borrowing anticipated to purchase park and open space land.
- ☐ The expected impact on the tax rate of such debt.
- ☐ The average valuation of new homes in the community, by type and size of housing unit.

## Model Template for Parks and Open Space Impact Fees

Desired Acres per 1,000 pop	Average cost per acre	Cost per 1,000 pop	Cost per person
<value>	<value>	#VALUE!	#VALUE!

Average Household Size by Type of Dwelling Unit									
Detached Single Family				Attached Single Family and Multi-Family			Mobile Home		
2 BR	3 BR	4 BR	5+ BR	1 BR	2 BR	3 BR	1 BR	2 BR	3 BR
1.58	2.57	3.02	3.08	1.17	1.85	2.14	1.39	1.93	3.29

Unadjusted Impact by Type of Dwelling Unit									
#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!

Credit for Taxes paid on Open Space Debt, 1st year										
Avg Value	<value>	<value>	<value>	<value>	<value>	<value>	<value>	<value>	<value>	<value>
Mil Rate for Debt	<value>	<value>	<value>	<value>	<value>	<value>	<value>	<value>	<value>	<value>
Tax per year	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Taxes in 20 yrs	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
PV of 20 yr tax	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!

Adjusted Impact	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Proposed Impact Fee	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!

### Instructions for the use of this Template

In order to use this template, a community must have gone through a planning process to identify the desired acreage of parks and open space per 1,000 residents. **Do not** use this template without having determined the desired level of service for this type of public facility. If the community has an existing deficiency of park and open space land (i.e., it is not currently meeting its desired number of acres per 1,000 population), then funds from impact fees should not be expended until the community makes up the deficit. **All data required are marked by bold headings and red <value> cells. As the values are entered, the "#VALUE!" errors will be replaced with the calculations.** You only need to enter values for the types of uses to which the impact fee will apply.

Enter the desired **number of acres per 1,000 residents** and the expected **average cost per acre** to purchase park and open space land.

*The template will calculate the expected cost per 1,000 population and per person.*

**Average Household Size by Type of Dwelling Unit** presents data derived from the 1990 Census of Population Public Use Microdata File. Though 10 years old, they are the best, most recent data publicly available and may be used unless more recent reliable information is available. These data represent the average household size in newly built (less than five years old) units and are shown for detached single family dwellings, attached single-family and multi-family dwellings, and mobile homes with different numbers of bedrooms. If a community has done the research at a local level and has more recent data available, those data should be used.

The **Unadjusted Impact** by type of dwelling unit is based on the community's desired level of service, its expected cost per acre and average household sizes. *This will be calculated for the user.* If the community does not plan on borrowing funds for the purchase of park and open space land, the proposed impact fee is in the table below. The "unadjusted impact" has been *rounded down* to the closest \$50.

	Proposed <b>Impact Fee</b> by Type of Dwelling Unit if No Loans for Land Purchase									
	Detached Single Family				Attached Single Family and Multi-Family			Mobile Home		
	2 BR	3 BR	4 BR	5 BR	1 BR	2 BR	3 BR	1 BR	2 BR	3 BR
Proposed <b>Impact Fee</b>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!

If the community will be borrowing funds to purchase park and open space land, then the impact fee must be adjusted to account for future tax payments for the debt service.

The template adjusts the impact fee for the present value of future payments of taxes to support the debt service for the new facilities. **Avg Value** reflects the average assessed value of each type of housing unit. These values should be developed with assistance from the assessor. This figure should reflect the average value of new housing units, not of all housing units in the community.

**Mil Rate for Debt** reflects the projected impact on the municipal tax rate from debt service incurred for park and open space land. This figure is usually prepared by the municipal treasurer in preparation for borrowing funds. If not, it can be derived by dividing the average debt service by the projected total valuation for the municipality.

The **Tax Per Year** is based on the estimate of the impact of debt service on the borrowed funds on the taxes paid by new development. It is the product of the Mil Rate for Debt times the Avg Value. *This will be calculated for the user.*

**Taxes in 20 yrs** reflects the amount of taxes to be paid over the assumed term of the borrowing. The length of time may be adjusted to reflect the term of the bonds or other debt by changing the "20" in the formula to the length of the debt. *This will be calculated for the user.*

**PV of 20 yr tax** is the present value of 20 annual contributions of the estimated tax payment, based on a 5% interest rate. In the template, the formula is presented as  $PV(0.05, 20, -B15)$  where 0.05 represents the interest rate, 20 represents the term of the financing and B15 represents the annual taxes paid. The first two numbers in the formula may be changed to reflect the expected interest rate and term of the financing. *This will be calculated for the user.*

The **Adjusted impact** is the difference between the calculated impact fee and present value of the tax payments. If adjusted impact fee is less than zero, no impact fee should be paid. *This will be calculated for the user.*

**Proposed impact fee** is the adjusted impact fee *rounded down* to the nearest fifty dollars. If the suggested impact fee is less than \$0, "#NUM" will be returned as the proposed fee -- no fee should be paid. *This will be calculated for the user.*

The Credit for Taxes on Debt must be adjusted in each year of the impact fee program to reflect the taxes paid as vacant land or an unimproved lot for the years prior to construction and taxes to paid in the remaining years of the bond.

## Highway Improvements Impact Fee

This template differs from the others that are included in that it cannot be used to calculate an impact fee in advance. Due to the varying relationships between traffic generation and property value, the impact fee must be calculated on the specific information on each new use. Also, unlike the other types of improvements, a highway impact fee is more likely to differ depending on the location of the new development. The impact fee paid by a new development must reflect the demand for service that new development will place upon the system. Two identical developments in opposite parts of a municipality will contribute different amounts of traffic to a particular stretch of road or intersection. The impact fee must reflect this difference.

In addition, the Highway Improvements Impact Fee Template bases the impact fee on peak hour traffic. Highways are designed to accommodate a certain amount of traffic in a given “design hour” rather than a specified level of traffic during the day. In order to collect an impact fee from a new use based only on that use’s impact on the highway or intersection to be improved, we must know what its contribution to the traffic during the peak hour will be. Therefore, the community must know when the peak hour of traffic on the road or through the intersection to be improved is, and must be able to estimate the amount of traffic each new use will generate during that hour. Finally, the community must be able to estimate the percent of the traffic from the new development that will be using the road or intersection.

In order to use this template, a community must have gone through at least a preliminary planning process for specific highway improvements. While engineering need not have been completed, the community must have completed enough planning in order to have identified the improvements planned, the new capacity of the street or intersection and have a cost estimate of the improvements. This template also requires knowledge of the existing traffic and the design capacity of the existing street or intersection. **Do not** use this template without having completed this type of preliminary planning.

In order to use the Highway Improvement Impact Fee Template, the user must have access to the following information:

- ❑ The estimated costs of the planned improvements. This figure should include only the municipality's costs.
- ❑ The current design capacity (on an hourly basis) of the highway or intersection.
- ❑ The planned capacity (on an hourly basis) of the highway or intersection after the improvements will be completed.
- ❑ The current peak hour traffic of the highway or intersection to be improved.
- ❑ The term and expected interest rate for any construction debt to be incurred by the municipality.
- ❑ The expected impact on the tax rate of the construction bonds.
- ❑ The traffic to be generated from the new development that will be using the highway or intersection during the peak hour. This figure will need to be calculated for each individual use.

## Model Template for Highway Improvements Impact Fees

Current Peak Hour Traffic	Current Design Capacity (Peak Hour)	Future Design Capacity (Peak Hour)	Increase in Capacity	Local Share of Improvement Cost	% of Increase in Capacity for New Growth	Portion of Cost for New Growth	Impact per Vehicle Trip
<value>	<value>	<value>	#VALUE!	<value>	#VALUE!	#VALUE!	#VALUE!

Land Use	Weekday Peak Hour Trips	Unit	Number of Proposed Units	Unadjusted Impact
Single Family	1.02	dwelling unit	<value>	#VALUE!
Apartment	0.67	dwelling unit	<value>	#VALUE!
Mobile Home	0.58	dwelling unit	<value>	#VALUE!
General Office	1.56	1,000 sq. ft	<value>	#VALUE!
Medical / Dental Office	4.36	1,000 sq. ft	<value>	#VALUE!
Hotel (Saturday peak)	0.72	room	<value>	#VALUE!
Specialty retail (gross leasable area)	6.41	1,000 sq. ft	<value>	#VALUE!
Shopping Center (<100,000 sq. ft. gross leasable area) (Saturday peak)	4.97	1,000 sq. ft	<value>	#VALUE!
Light Industrial	1.08	1,000 sq. ft	<value>	#VALUE!
Manufacturing	0.78	1,000 sq. ft	<value>	#VALUE!
Sit Down Restaurant (Saturday peak)	20.00	1,000 sq. ft	<value>	#VALUE!
Fast Food Restaurant without Drive thru	63.50	1,000 sq. ft	<value>	#VALUE!

Fast Food Restaurant with Drive thru (Sunday peak)	72.74	1,000 sq. ft	<value>	#VALUE!
Convenience Store, 24 Hour	65.24	1,000 sq. ft	<value>	#VALUE!
Convenience Store, open 15-16 Hours	36.22	1,000 sq. ft	<value>	#VALUE!

Credit for Taxes paid on Highway Improvement Debt, 1st year, and Proposed Impact Fees
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Land Use	Avg Value	Mil Rate for Debt	Tax per year	Taxes in 20 yrs	PV of 20 yr tax	Adjusted Impact	Proposed Impact Fee
Single Family	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Apartment	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Mobile Home	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
General Office	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Medical / Dental Office	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Hotel (Saturday peak)	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Specialty retail (gross leasable area)	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Shopping Center (<100,000 sq. ft. gross leasable area) (Saturday peak)	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Light Industrial	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Manufacturing	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Sit Down Restaurant (Saturday peak)	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Fast Food Restaurant	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!

Fast Food Restaurant without Drive thru	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Fast Food Restaurant with Drive thru (Sunday peak)	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Convenience Store, 24 Hour	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!
Convenience Store, open 15-16 Hours	<value>	<value>	#VALUE!	#VALUE!	#VALUE!	#VALUE!	#VALUE!

### Instructions for the use of this Template

In order to use this template, a community must have gone through at least a preliminary planning process for specific highway improvements. While engineering need not have been completed, the community must have completed enough planning in order to have identified the improvements planned, the new capacity of the street or intersection and have a cost estimate of the improvements. This template also requires knowledge of the existing traffic and the design capacity of the existing street or intersection. **Do not** use this template without having completed this type of preliminary planning. **All data required are marked by bold headings and red <enter value> cells. As the values are entered, the "#VALUE!" errors will be replaced with the calculations.** You only need to enter values for the types of uses to which the impact fee will apply.

Enter the current **Peak Hour Traffic**, **Current Design Capacity** (vehicles per hour) of the street or intersection, and **Future Design Capacity** (vehicles per hour) of the street or intersection after the improvements.

The template calculates the **Increase in Capacity** that is planned for new growth. Impact fees may not be used to finance improvements for existing deficiencies, so only the portion of the cost that is to expand the highway or increase the capacity of the intersection beyond today's traffic can be financed with impact fees.

Enter the **Local Share of Improvement Costs** of the highway or intersection. If the Maine Department of Transportation is going to be participating in the construction of the improvements, impact fees may be used only for the local share of the cost.

The **Percentage of the Increase in Capacity for New Growth** represents increase in capacity of new growth divided by the difference between the current capacity and the capacity after improvement. *This will be calculated for the user.*



The **Portion of Cost of New Growth** is the percentage of the increase in capacity for new growth times the local share of the costs of improvement. *This will be calculated for the user.*

The cost of the **Impact per Vehicle Trip** represents the portion of the cost for new growth divided by the increase in capacity for new growth. In order to determine the impact fee for a new development the contribution of the development to the highway's or intersection's peak hour traffic must be known. *This will be calculated for the user.*

**Average Peak Hour Traffic** for a variety of uses is detailed. Adjustment may be made for trips occurring at "non peak hours" and trips to or from the use that are from vehicles currently on the road (known as "drive-by" trips). Assistance may be available from the Division Traffic Engineer at the Maine Department of Transportation Division office or from your regional council.

The **Unadjusted Impact** by land use is based on the **Number of Proposed Units**, the Average Daily Traffic, and the Impact Per Vehicle Trip. If the community does not plan on borrowing funds for the purchase of park and open space land, the proposed impact fee is in the table below. The "unadjusted impact" has been rounded down to the closest \$50.

Land Use	Proposed Impact Fee
Single Family	#VALUE!
Apartment	#VALUE!
Mobile Home	#VALUE!
General Office	#VALUE!
Medical / Dental Office	#VALUE!
Hotel (Saturday peak)	#VALUE!
Specialty retail (gross leasable area)	#VALUE!
Shopping Center (<100,000 sq. ft. gross leasable area) (Saturday peak)	#VALUE!
Light Industrial	#VALUE!
Manufacturing	#VALUE!

Sit Down Restaurant (Saturday peak)	#VALUE!
Fast Food Restaurant without Drive thru	#VALUE!
Fast Food Restaurant with Drive thru (Sunday peak)	#VALUE!
Convenience Store, 24 Hour	#VALUE!
Convenience Store, open 15-16 Hours	#VALUE!

If the community will be borrowing funds for the highway improvement, then the impact fee must be adjusted to account for future tax payments for the debt service. This process is accomplished in lines 23 through 38.

The template adjusts the impact fee for the present value of future payments of taxes to support the debt service for the new improvements. **Avg Value** reflects the average assessed value of each type of development. These values should be developed with assistance from the assessor. This figure should reflect the average value of new units, not of all development in the community.

**Mil Rate for Debt** reflects the projected impact on the municipal tax rate *from debt service for the transportation improvement projects*. This figure is usually prepared by the municipal treasurer in preparation for borrowing funds. If not, it can be derived by dividing the average debt service by the projected total valuation for the municipality.

The **Tax Per Year** is based on the estimate of the impact of debt service on the borrowed funds on the taxes paid by new development. It is the product of the Mil Rate for Debt times the Avg Value. *This will be calculated for the user.*

**Taxes in 20 yrs** reflects the amount of taxes to be paid over the assumed term of the borrowing. The length of time may be adjusted to reflect the term of the bonds or other debt by changing the "20" in the formula to the length of the debt. *This will be calculated for the user.*

**PV of 20 yr tax** is calculated by the template as the present value of 20 annual contributions of the estimated tax payment, based on a 5% interest rate. The interest rate should be adjusted to reflect current rates. It may be reasonable to use the same interest rate as is projected for borrowing funds for the purchase. In the template, the formula is presented as  $PV(0.05,20,-D22)$ , for example, where 0.05 represents the interest rate (5%), 20 represents the term of the financing (20 years), and D22 represents the annual tax contribution of single family homes. The first two numbers in the formula may be changed to reflect the expected rate and term of the financing. *This will be calculated for the user.*

The **Adjusted impact** is the difference between the calculated impact fee and present value of the tax payments. If adjusted impact fee is less than zero, no impact fee should be paid. *This will be calculated for the user.*

**Proposed impact fee** is the adjusted impact fee *rounded down* to the nearest fifty dollars. If the suggested impact fee is less than \$0, "#NUM" will be returned as the proposed fee -- no fee should be paid. *This will be calculated for the user.*

The Credit for Taxes on Debt must be adjusted in each year of the impact fee program to reflect the taxes paid as vacant land or an unimproved lot for the years prior to construction and taxes to paid in the remaining years of the bond.

## Appendix C

### Regional Council Land Use Technical Assistance Contacts

<b>Androscoggin Valley Council of Governments</b> John Maloney 125 Manley Road Auburn, ME 04210 207-783-9186	<b>Greater Portland Council of Governments</b> Rick Seeley 68 Marginal Way, 4 <sup>th</sup> Floor Portland, ME 04101 207-774-9891 or 800-649-1304	<b>Hancock County Planning Commission</b> Tom Martin 395 State Street Ellsworth, ME 04605 207-667-7131
<b>Kennebec Valley Council of Governments</b> Chris Huck 17 Main Street Fairfield, ME 04937 207-453-4585 or 800-731-5109	<b>Lincoln County Planning Office</b> Bob Faunce PO Box 249 Wiscasset, ME 04578 207-784-2617	<b>MidCoast Council for Business Development and Planning</b> Katrina Van Dusen 49 Pleasant Street Brunswick, ME 04011 207-729-0144
<b>Mid Coast Regional Planning Commission</b> Eric Galant 166 South Main Street, Suite 201 Rockland, ME 04841 207-594-2299 or 800-339-6389	<b>Northern Maine Development Commission</b> Jay Kamm PO Box 779 Caribou, ME 04736 207-489-8736 or 800-427-8736	<b>Penobscot Valley Council of Governments</b> Dean Bennett PO Box 2579 Bangor, ME 04401 207-942-6389 or 800-339-6389
<b>Southern Maine Regional Planning Commission</b> Kate Albert 21 Bradeen Street, Suite 400 Springvale, ME 04083 207- 324-2952	<b>Washington County Council of Governments</b> Judy East PO Box 817 Machias, ME 04654 207-255-8686 or 888-287-3006	